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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,862	11/03/2003	Johannes Antonius Walta	EP&C 16.504A	5130

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EXAMINER	
CHORBAJI, MONZER R	

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/699,862	WALTA, JOHANNES ANTONIUS	
	Examiner	Art Unit	
	MONZER R. CHORBAJI	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4,5,9 and 10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4,5,9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This final action is in response to the amendment received on 09/02/2005

Claim Objections

1. Claim 9 is objected to because of the following informalities: In claim 9, line 19; the word "having" should be replaced with "have". Also, in claim 9, line 24; the word "of" should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 4-5 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeifer (U.S.P.N. 5,738,824) in view of Parker et al (U.S.P.N. 5,425,815).

With respect to claims 4 and 9, the Pfeifer reference discloses a system for treating used endoscopes (col.1, lines 8-10) including the following: a plurality of racks (col.7, lines 28-31), a rack (figure 1, 10) with an endoscope therein (figure 1, 26, 25 and

20), a fixed connection block (figure 1, 18) being connected to passages of an endoscope (figure 1, 26, 25 and 20) by flexible tubes (figure 1, 19) such that no portion of the endoscope being within the connection block, the fixed connection is in the rack (figure 1, 18), a treatment device (col.10, line 3) for subjecting the endoscope to various specific treatments having a counter-connection block (figure 3, 41) connected to the rack's connection block (figure 3, 41 and 10) and flexible tubes to passages of the endoscope connect the connection block (figure 1, 19, 22, 20 and 18). In addition, the Pfeifer reference discloses cleaning, disinfecting or sterilizing steps that are all performed within one device (figure 3:40 and col.6, lines 41-43). However, with respect to claims 4 and 9, the Pfeifer reference fails to disclose a drying device and a multiple separate treatment devices with different kinds of treatments such that each treatment device is situated at a distance from one another or each treatment device does not have an enclosing wall in common with the other devices. The Parker reference, which is in the art of disinfecting endoscopes, discloses a drying device (col.4, lines 7-13) and a plurality of treatment devices (figure 3 and 10-12) such that each device can be run differently and that depending on the type of the endoscope being treated, the cycles parameters can be modified (col.4, lines 16-25). This statement means a treatment cycle is device 3 can be operated differently than a treatment cycles in device 11. Clearly, the Parker reference teaches plurality of different treatment devices. With regard to the devices as each is situated at a distance from one another or not having common enclosing walls, the Parker reference discloses a device made up of multiple integral compartments, which cleans, disinfects and dries endoscopes. Also, the Pfeifer

reference teaches of a single device such that the washing, the disinfecting and the drying steps are all performed in one apparatus. Parker and Pfeifer devices are made up of integral parts or elements such that each part performs a step in the process of disinfecting endoscopes. Thus, to separate a structure, which is made up of various elements into individual separate devices is unpatentable. The mere fact that a given structure is integral does not preclude its consisting of various elements. See Nerwin V. Erlichman, 168 USPQ 177, 179 (PTO Bd. Of Int. 1969). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of the Pfeifer reference by including treatment cycles with different parameters as taught by the Parker reference in order to accommodate the system for different types of endoscopes with different treatment needs (col.4, lines 20-25).

With respect to claims 5 and 10, the Pfeifer reference discloses carrier tray (figure 4, 61, 62 and col.10, lines 2-6) for accommodating or transporting the endoscope.

Remarks

5. The amendments to the drawings and to the specification received on 09/02/2005 have been accepted.

Response to Arguments

6. Applicant's arguments filed on 09/02/2005 have been fully considered but they are not persuasive.

On page 8 of the Remarks section, applicant argues that, "Therein Pfeifer fails to teach, disclose, or suggest the advantageous aspects of quicker assembly-line

throughput of multiple endoscopes treatments as such each device is suitably used for its own specific task without being occupied in other tasks before becoming available again for use." The above remarks refer to intended use and carry no patentable subject matter in apparatus claims. The Pfeifer reference discloses a system for treating used endoscopes (col.1, lines 8-10) that includes a plurality of racks (col.7, lines 28-31). In addition, the Parker reference discloses a device made up of multiple integral compartments, which cleans, disinfects and dries endoscopes and the Pfeifer reference teaches of a single device such that the cleaning, the disinfecting and the drying steps are all performed in one apparatus. Parker and Pfeifer devices are made up of integral parts or elements such that each part performs a step in the process of disinfecting endoscopes. Thus, to separate a structure, which is made up of various elements into individual separate devices is unpatentable. The mere fact that a given structure is integral does not preclude its consisting of various elements. See Nerwin V. Erlichman, 168 USPQ 177, 179 (PTO Bd. Of Int. 1969). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of the Pfeifer reference by including treatment cycles with different parameters as taught by the Parker reference in order to accommodate the system for different types of endoscopes with different treatment needs (col.4, lines 20-25).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD D. CRISPINO can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji MRC
Patent Examiner
AU 1744
11/16/2005

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY [illegible] 1700